

Message Text

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ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 ARA-10 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
OMB-01 DOE-15 IO-13 JUSE-00 /124 W
-----061251 101622Z /43,

R 101435Z MAY 78
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 7439
INFO USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 3 BRASILIA 3738

PASS STR ELECTRONICALLY FOR AMB, STRAUSS AND RIVERS

PASS TREASURY FOR BERGSTEN

GENEVA FOR MTN

E.O. 11652: GDS
TAGS: ETRD, MTN, EFIN, BR
SUBJ: AMBASSADOR WOLFF - FINANCE MINISTER SIMONSEN
TALKS ON EXPORT SUBSIDIES AND COUNTERVAILING DUTIES

1. SUMMARY. IN MEETING WITH AMBASSADOR WOLFF, FINANCE
MINISTER SIMONSEN INDICATED BRAZILIAN INTEREST IN SERIOUS
NEGOTIATIONS WITH U.S. ON SUBSIDIES/COUNTERVAILING DUTY
CODE. GOB IS CAUTIOUS IN WILLINGNESS TO MAKE CONCESSIONS
BUT GOB ANXIOUS TO ACQUIRE GREATER UNDERSTANDING WITH
U.S. AS STEP TOWARD MUTUALLY SATISFACTORY MULTILATERAL
CODE. SIMONSEN ACCEPTED IDEA OF TWO TRACK APPROACH,
AND INDICATED DESIRE TO WORK TOGETHER TO DEVELOP
POSSIBLE SPECIAL AND DIFFERENTIAL TREATMENT. U.S.
PROMISED TO PROVIDE SUMMARY PAPER TO GOB DESCRIBING
CURRENT STATE OF PLAY IN SUBSIDIES/COUNTERVAILING
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DISCUSSIONS. IN ADDITION AMBASSADOR WOLFF PROPOSED
THAT GOB REP DORNELLES VISIT WASHINGTON IN NEAR FUTURE
FOR TALKS WITH WOLFF, BERGSTEN AND OTHERS TO SEEK
COMMON U.S.-GOB GROUND, PARTICULARLY ON DEGREE OF
OBLIGATIONS/FLEXIBILITY THAT MIGHT BE APPLIED TO
LDCS. END SUMMARY.

2. MINISTER SIMONSEN INDICATED TO AMBASSADOR WOLFF THAT GOB INTEREST IN SUBSIDIES/CVD CODE IS CONSIDERABLE. HE SAID THAT BRAZILIAN DECISION TO ENGAGE IN SERIOUS TARIFF NEGOTIATIONS IS MOTIVATED MAINLY BY DESIRE TO BE INVOLVED IN CONSIDERATION OF SUBSIDIES ISSUE. HE SAID BRZAIL CAN BE FLEXIBLE ON TARIFFS BUT ITS PARAMOUNT OBJECTIVE IS A SUBSIDIES CODE ENCOMPASSING AN INJURY TEST. HE EMPHASIZED THAT BRAZIL CONSIDERS AN INJURY CLAUSE TO BE QUOTE ABSOLUTELY ESSENTIAL END QUOTE. HE DID NOT REITERATE BRAZIL'S PRIOR POSITION THAT THERE MUST BE A QUOTE POSITIVE LIST END QUOTE OF EXPORT INCENTIVE PRACTICES THAT WOULD BE PERMISSIBLE, A LEAST FOR LDC'S, EVEN IF THEY RESULTED IN INJURY IN THE IMPORTING COUNTRY.

3. AMBASSADOR WOLFF EXPLAINED THE BASIC ELEMENTS OF THE U.S. POSITION ON A POSSIBLE SUBSIDIES CODE; NAMELY, A TWO TRACK APPROACH WHICH WOULD INVOLVE CVDS RELATING TO AN INJURY TEST, AND RECOURSE TO THE NULLIFICATION AND IMPAIRMENT PROVISIONS IN CASE OF VIOLATION OF COMMITMENTS UNDERTAKEN IN AN AGREEMENT NOT TO UTILIZE CERTAIN SUBSIDIES. HE MENTIONED THAT THE LIST OF INCENTIVE PRACTICES PREPARED BY THE GATT WORKING PARTY IN 1960 MIGHT ADEQUATELY SERVE AS A POINT OF DEPARTURE FOR DISCUSSIONS. HE NOTED IN PARTICULAR THAT THE OVERREBATE OF IPI AND INCOME TAX REBATES WOULD BE COVERED BY THIS LIST. IN RESPONDING, SIMONSEN STATED
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THAT HE COULD ACCEPT THE PRINCIPLE OF RETALIATION IN RESPONSE TO VIOLATION OF A COMMITMENT, BUT THAT BRAZIL WOULD NOT BE AT ALL INTERESTED IN A CODE THAT WOULD, BY DEFINITION, PROHIBIT ALL EXPORT INCENTIVES, UNLESS SUCH A CODE WOULD INCLUDE SPECIAL AND DIFFERENTIAL TREATMENT FOR LDCS. FOR BRAZIL SUCH AN AGREEMENT WOULD NOT HELP A BIT SINCE GOB SUBSIDY PRACTICES WOULD BE PROHIBITED AND THUS NOT SUBJECT TO AN INJURY TEST.

4. AMBASSADOR WOLFF POINTED OUT THAT THE LIST OF PROHIBITIVE PRACTICES WAS DEVISED IN DEVELOPED COUNTRY CONTEXT AND THAT LDC OBLIGATIONS ON EXPORT SUBSIDIES WOULD HAVE TO BE DEVELOPED. HE POINTED OUT THAT THE QUESTION IS WHAT LEVEL OF OBLIGATIONS THE LDCS CAN

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OMB-01 DOE-15 IO-13 JUSE-00 /124 W
-----061180 101621Z /43

R 101435Z MAY 78
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 7440
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C O N F I D E N T I A L SECTION 2 OF 3 BRASILIA 3738

PASS STR ELECTRONICALLY FOR AMB, STRAUSS AND RIVERS

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REASONABLY BE EXPECTED TO ASSUME. HE EXPLAINED THAT THIS IS AN IMPORTANT ISSUE FOR THE U.S. CONGRESS AND THAT WE COULD NOT SELL A CODE THAT APPEARED TO LICENSE LDC EXPORT SUBSIDIES FOR ALL COUNTRIES AND PRODUCTS UP TO THE POINT OF CAUSING INJURY. MINISTER SIMONSEN EXPRESSED UNDERSTANDING OF THE U.S. POLITICAL REQUIREMENTS AND EXPRESSED HOPE THAT THE U.S. AND BRAZIL CAN WORK TOWARD A COMPROMISE SOLUTION. HE AND AMBASSADOR WOLFF AGREED THAT IT WOULD BE USEFUL TO ATTEMPT TO BETTER DEFINE CRITERIA FOR MEASURING THE EXTENT OF THE SUBSIDIZATION APPROPRIATE TO DEVELOPMENT NEEDS, THIS WOULD HAVE TO TAKE INTO ACCOUNT NOT ONLY THE FORM OF THE INCENTIVES BUT ALSO THE EXPORTING COUNTRY'S INDUSTRIAL AND DEVELOPMENT GOALS AND ITS LEVEL OF COMPETITIVENESS IN SPECIAL PRODUCT SECTORS AND THE DEGREE TO WHICH HARM WOULD BE ACCEPTABLE.
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5. MR. BARRACLOUGH OFFERED THAT THERE COULD BE INTERNATIONAL REVIEW OF COUNTERVAILING ACTIONS INCLUDING THE INJURY TEST BUT NOT AN INTERNATIONAL DECISION OF WHETHER INJURY EXISTED. MINISTER SIMONSEN OBSERVED THAT WHILE IN THEORY A COMPETENT INTERNATIONAL BODY

COULD DETERMINE THE EXISTANCE OF INJURY, HE ACKNOWLEDGED THAT SUCH AN APPROACH IS NOT PRACTICAL. AMBASSADOR WOLFF AND MINISTER SIMONSEN ALSO AGREED ON THE IMPORTANCE THAT THE CODE NOT APPEAR TO BE A LICENSE TO SUBSIDIZE EXPORTS. ONE COULD NOT STATE THAT SUBSIDIZATION UP TO CERTAIN LEVELS WOULD BE PERMISSIBLE. WOLFF ALSO STATED THAT HE RECOGNIZED THAT THE GAP WAS GREAT BETWEEN U.S. GOVERNMENT AND GOB NEEDS IN SUBSIDY CODE, AND IT IS NOT CLEAR THAT THE TWO GOVERNMENTS COULD REACH COMMON POSITION, HOWEVER, WOLFF AND SIMONSEN AGREED THAT ABSENCE OF AGREEMENT WOULD CAUSE US DECADES OF PROBLEMS.

6. MR. DORNELLES COMPLAINED THAT THE U.S. SHOULD NOT BE CONSIDERING COUNTERVAILING DUTIES ON BRAZILIAN TEXTILE EXPORTS IN VIEW OF THE EXISTENCE OF A BILATERAL TEXTILE AGREEMENT WITH BRAZIL. HE CITED THE DANISH BUTTER COOKIE CASE AS A PRECEDENT WHICH HE HOPED WOULD PERMIT THE U.S. TO WAIVE COUNTERVAILING DUTIES ON TEXTILES. AMBASSADOR WOLFF EXPLAINED THE UNIQUE CIRCUMSTANCES SURROUNDING THE BUTTER COOKIE DECISION. HE POINTED OUT THAT UNDER EXISTING U.S. LAW THE ASSUMPTION OF QUOTA RESTRAINTS UNDER THE BILATERAL TEXTILE AGREEMENT IS NOT RELEVANT TO THE DETERMINATION THAT TREASURY MUST MAKE WITH REGARD TO CVDS. HE AGREED WITH SIMONSEN'S OBSERVATION, HOWEVER, THAT ELABORATION OF AN INJURY CLAUSE IN A SUBSIDY/CVD CODE MIGHT ALTER THESE CIRCUMSTANCES. CONFIDENTIAL

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HOWEVER, HE AND MINISTER SIMONSEN NOTED THE DANGER THAT A RULE AVOIDING DUPLICATIVE USE OF SUBSIDIES AND OTHER RESTRICTIONS MIGHT END UP ENCOURAGING THE USE OF QUOTAS.

7. MINISTER SIMONSEN EXHIBITED OPEN-MINDEDNESS AND PRAGMATISM REGARDING THE NEED FOR A CODE TO THE APPARENT DISCOMFORT OF DORNELLES, GIVEN THE LATER RIGID POSITION THE PRECEDING DAY. (SEE SEPTEL.) AS FURTHER IMPORTANT EVIDENCE OF THIS ATTITUDE, MINISTER SIMONSEN STATED THAT BRAZIL MIGHT BE WILLING TO PHASE OUT CERTAIN EXPORT SUBSIDIES, DEPENDING OF COURSE ON THE MEASURES AND PRODUCTS INVOLVED AND THE RELEVANT TIMEFRAME. MINISTER SIMONSEN ALSO QUIETLY ACKNOWLEDGED THE POSSIBLE NEED FOR PROVISION IN THE CODE FOR GRADUATION OF LDCS TO DEVELOPED COUNTRY STATUS. FINALLY, HE AGREED WITH AMBASSADOR WOLFF'S EMPHASIS ON A PREFERENCE FOR AN MTN CODE IN CONTRAST TO A BILATERAL AGREEMENT IN PART FOR REASONS RELATED TO GAINING CONGRESSIONAL APPROVAL.

8. MINISTER SIMONSEN RECOGNIZED THAT THE MTN MUST SUCCEED IN ORDER TO PRECLUDE A SERIOUS UPSURGE OF

PROTECTIONISM. IN ORDER TO BRING BRAZIL MORE ACTIVELY

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-----061042 101621Z /43

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C O N F I D E N T I A L SECTION 3 OF 3 BRASILIA 3738

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INTO THE NEGOTIATIONS, AMBASSADOR WOLFF SUGGESTED THAT MR. DORNELLES COME TO WASHINGTON IN THE NEAR FUTURE TO MEET WITH TREASURY ASSISTANT SECRETARY BERGSTEN, MTN DEL REP WOLFF, AND OTHERS TO FURTHER DISCUSS THE OUTLINES OF THE U.S. POSITION ON A SUBSIDIES CODE AND TO SEEK TO FURTHER DEFINE THE NATURE AND DEGREE OF OBLIGATIONS THAT LDCS MIGHT ASSUME. SIMONSEN REACTED ENTHUSIASTICALLY TO THIS PROPOSAL AND REPLIED THAT DORNELLES WOULD BE WILLING TO COME TO WASHINGTON AT ANY TIME TO DISCUSS THIS SUBJECT. AMBASSADOR WOLFF EXPLAINED THAT A COMMON U.S. AND BRAZILIAN UNDERSTANDING ON THE S AND D ELEMENTS OF A CODE WOULD BE USEFUL AS THE U.S. PURSUES ITS TALKS WITH OTHERS. HE EMPHASIZED THE NEED TO MOVE QUICKLY IN ORDER TO REACH AGREEMENT AT THE POLITICAL LEVEL ON ALL ASPECTS OF THE MTN BY MID-JULY. AMBASSADOR WOLFF AGREED THAT THE U.S. WILL PROVIDE TO
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BRAZIL WITHIN A FEW DAYS A PAPER DESCRIBING BRIEFLY U.S. THOUGHTS ON A SUBSIDIES CODE. DURING INFORMAL CONVERSATION FOLLOWING MEETINGS, DELEGATION TREASURY REP. SCHOTT ANDEMBASSY FINATT CONFIRMED TO DORNELLES THAT US WILL PROVIDE PAPER IN NEAR FUTURE. THEY ALSO SUGGESTED TO DORNELLES THAT HE PROVIDE THE US WITH GOB IDEAS ON GENERAL FRAMEWORK FOR A CODE AND ON SUBSIDY S AND D AS ADDITIONAL BASIS FOR DISCUSSION AT WASHINGTON MEETING. DORNELLES AGREED ON DESIRABILITY OF EXCHANGE OF PAPERS AND INDICATED THAT FROM HIS STANDPOINT FIRST HALF OF JUNE MIGHT BE EARLIEST APPROPRIATE TIME FOR MEETING. FYI: FOLLOW-UP SESSION TO WASHINGTON MEETING COULD OCCUR IN GENEVA ONCE IT IS RECIPE FOR BRAZILIAN PARTICIPATION. END FYI.

9. SIMONSEN CLEARLY BELIEVES THAT AN MTN SOLUTION IS DESIRABLE AND NECESSARY. IN CONTRAST, INDUSTRY AND COMMERCE MINISTER CALMON DE SA INDICATED TO WOLFF IN SEPARATE MEETING HIS BELIEF THAT A MULTILATERAL CODE IS NOT CRUCIAL BECAUSE HE (CALMON DE SA) HAS IMPRESSION FROM TALKS WITH WASHINGTON OFFICIALS THAT A BILATERAL DEAL WITH US COULD BE WORKED OUT ON SUBSIDY ISSUE IF MTN FAILED (SEE SEPTTEL). JOHNSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC DISCUSSIONS, NEGOTIATIONS, EXPORT SUBSIDIES, COUNTERVAILING DUTIES
Control Number: n/a
Copy: SINGLE
Draft Date: 10 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BRASIL03738
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780198-0907
Format: TEL
From: BRASILIA
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1978/newtext/t19780576/aaaacmcd.tel
Line Count: 308
Litigation Code IDs:
Litigation Codes:
Litigation History:
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Original Handling Restrictions: n/a
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Original Previous Handling Restrictions: n/a
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Review Release Event: n/a
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Review Withdrawn Fields: n/a
SAS ID: 2740955
Secure: OPEN
Status: NATIVE
Subject: AMBASSADOR WOLFF - FINANCE MINISTER SIMONSEN TALKS ON EXPORT SUBSIDIES AND COUNTERVAILING DUTIES
TAGS: ETRD, EFIN, BR, US, MTN, (WOLFF, ALAN), (SIMONSEN, MARIO HEMNRIQUE)
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/33f6b0a1-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014